



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

29 AUG 2007

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

| | | |
|-------------------------------------|---|------------------|
| In re Application of | : | DECISION ON |
| CHO | : | |
| Application No.: 10/567,529 | : | PETITION UNDER |
| PCT No.: PCT/KR2004/002466 | : | |
| Int. Filing Date: 24 September 2004 | : | 37 CFR § 1.47(b) |
| Priority Date: 26 September 2003 | : | |
| Attorney Docket No.: 05-476-C | : | |
| For: APPARATUS AND METHOD FOR THE | : | |
| POSITION OF A PERSON/OBJECT USING A | : | |
| MOBILE COMMUNICATION NETWORK | : | |

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 28 June 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/KR2004/002466, which designated the US and claimed a priority date of 26 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2006 (26 March 2006 being a Sunday).

On 07 February 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(h).

On 14 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 19 March 2007, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a declaration of facts by Joo-Young Kim, a memorandum of law by Joo-Young Kim, and a declaration of facts by Jiwon Lim.

On 10 May 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b). Specifically, it was noted that factual proof that the inventor cannot be reached after diligent effort had not been provided nor had proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 28 June 2007, applicants submitted the instant renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a second declaration of facts by Jiwon Lim and a corrected memorandum of law by Joo-Young Kim.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 10 May 2007, items (1), (3), (4), and (6) have been met.

Items (2) and (5) have now been met as well.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **19 March 2007**.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301